

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAR 17 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 21-30013

Plaintiff-Appellee,

D.C. No. 3:20-cr-05270-RJB-1
Western District of Washington,
Tacoma

v.

RICHARD MARSCHALL,

ORDER

Defendant-Appellant.

Before: GRABER, R. NELSON, and HUNSAKER, Circuit Judges.

Appellee's motion to dismiss this appeal for lack of jurisdiction (Docket Entry No. 4), is granted because the district court's December 22, 2020, order denying appellant's motion to dismiss the indictment is not a final judgment or an immediately appealable collateral order. *See* 28 U.S.C. § 1291; *Midland Asphalt Corp. v. United States*, 489 U.S. 794, 798-99 (1989) (describing collateral order doctrine).

In his opposition to appellee's motion, appellant asks this court to treat his appeal, in the alternative, as a petition for a writ of mandamus. Assuming without deciding that this request is procedurally proper, the petition is denied because appellant has not shown that he "has no other adequate means, such as a

direct appeal, to attain the relief he . . . desires." *Bauman v. U.S. Dist. Court*, 557 F.2d 650, 654 (9th Cir. 1977).

DISMISSED.